

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Winner Dawan Mate, :
Plaintiff : Civil Action 2:12-cv-01073
v. : Judge Frost
Thomas Hampton : Magistrate Judge Abel
and Edward Sargus, Jr., :
Defendants :
:

Order

Plaintiff Winner Dewan Mate brought this action alleging his constitutional rights were violated during an appeal of a decision by the Commissioner of Social Security denying his application for disability benefits. This matter is before the Court on plaintiff Mate's December 10 objections (doc. 4) to Magistrate Judge Abel's November 27, 2012 Report and Recommendation that Mate's motion to proceed *in forma pauperis* be denied because this is at least the second frivolous lawsuit he has filed regarding the same matter.

Plaintiff argues that he is not attacking the decision of the Commissioner of Social Security but the conduct of defendants in causing him to be denied benefits. But as the Magistrate Judge found:

As in previous lawsuits, Mate complains about the Commissioner's decision denying him disability benefits and the actions of the trial judge and his court-appointed attorney in *Shanda Mathis on behalf of Dawan Mate v. Commissioner of Social Security*, 2:10-cv-0668. That lawsuit, was initially

attempted to be filed by Ms. Mathis in violation of an order in *Shanda Mathis v. State of Ohio Probate Court*, 2:12-cv-84, that directs the Clerk of Court "to present any future Complaints [filed by Ms. Shanda Mathis] to a Magistrate Judge to determine whether Ms. Mathis is again seeking to impermissibly file an action on behalf of another." *Shanda Mathis on behalf of Dawan Mate v. Edward Sargus, Jr., et al.*, 2:12-mc-13, Doc. 1, PageID # 1.

These same claims were also presented to the court in *Winner Dewan Mate v. Thomas Hampton and Edward Sargus, Jr.*, 2:12-cv-426 which was dismissed as frivolous by the Court's June 26, 2012 Opinion and Order.

Analysis. This lawsuit is simply an attempt to re-litigate matters adjudicated in *Shanda Mathis on behalf of Dawan Mate v. Commissioner of Social Security*, 2:10-cv-0668 and *Winner Dewan Mate v. Thomas Hampton and Edward Sargus, Jr.*, 2:12-cv-426. Plaintiff Mate's remedy, if any, is by appeal, not filing repeated lawsuits arising out of the same set of facts.

November 27, 2012 Report and Recommendation, p, 2, Doc. 3, PageID 26 (footnote omitted).

Upon *de novo* review in accordance with the provisions of 28 U.S.C. §636(b)(1)(B), the Court overrules plaintiff Mate's December 10, 2012 objections (doc. 4) to Magistrate Judge Abel's November 27, 2012 Report and Recommendation and **ADOPTS** the Report and Recommendation. Plaintiff Winner Dawan Mate's November 20, 2012 motion to proceed without prepayment of fees and costs (doc. 1) is DENIED. This action is hereby DISMISSED as frivolous. The Clerk of Court is DIRECTED to enter JUDGMENT for defendants.

/s/ Gregory L. Frost
Gregory L. Frost
United States District Judge

